

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **House Bill 4391**

BY DELEGATES ELLINGTON, TULLY, LONGANACRE,  
TONEY, HORST, HORNBuckle, MAZZOCCKHI, KIMBLE,  
AND MAYNOR

[Introduced January 25, 2022; referred to the  
Committee on Education then Finance]



1 A BILL to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended, relating  
2 to school nurses; requiring counties to employ nurses in proportion to student population;  
3 requiring each county to have at least one school nurse; allowing licensed practical nurses  
4 supervised by a registered professional nurse to be counted as nurse; and requiring that  
5 registered professional nurse of a county complete needs assessment.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-22. Medical and dental inspection; school nurses; contracts with public health department for services considered equivalent; specialized health procedures; delegation of certain health care procedures to a school employee; training requirements; establishment of council of school nurses.**

1 (a) County boards shall provide proper medical and dental inspections for all pupils  
2 attending the schools of their county and have the authority to take any other action necessary to  
3 protect the pupils from infectious diseases, including the authority to require from all school  
4 personnel employed in their county, certificates of good health and of physical fitness.

5 (b) Each county board shall employ full-time at least one school nurse for every 1,500  
6 kindergarten through seventh grade pupils in net enrollment or major fraction thereof: *Provided,*  
7 That each county shall employ full time at least one school nurse: *Provided, however,* That a  
8 county board may contract with a public health department for services considered equivalent to  
9 those required by this section in accordance with a plan to be approved by the state board:  
10 *Provided further,* That the state board shall promulgate rules requiring the employment of school  
11 nurses in excess of the number required by this section to ensure adequate provision of services  
12 to severely ~~handicapped~~ disabled pupils. An appropriation may be made to the state department  
13 to be distributed to county boards to support school health service needs that exceed the capacity  
14 of staff as mandated in this section. Each county board shall apply to the state superintendent for

15 receipt of this funding in a manner set forth by the state superintendent that assesses and takes  
16 into account varying acuity levels of students with specialized health care needs.

17 (c) Notwithstanding subsection (b) of this section, by the school year beginning July 1,  
18 2025, each county board shall employ full-time at least one school nurse for every 1,500 pupils  
19 in net enrollment or major fraction thereof in pre-kindergarten through the 12th grade: *Provided,*  
20 That each county shall employ full-time at least one school nurse. Notwithstanding subsection (d)  
21 of this section any person employed as a school nurse to meet the expanded requirement for  
22 school nurses under this subsection may be either a registered professional nurse or licensed  
23 practical nurse working under the supervision of a registered professional nurse.

24 ~~(e)~~ (d) Any person employed as a school nurse must be a registered professional nurse  
25 properly licensed by the West Virginia Board of Examiners for Registered Professional Nurses in  
26 accordance with §30-7-1 *et seq.* of this code.

27 ~~(d)~~ (e) Specialized health procedures that require the skill, knowledge and judgment of a  
28 licensed health professional may be performed only by school nurses, other licensed school  
29 health care providers as provided in this section, or school employees who have been trained and  
30 retrained every two years who are subject to the supervision and approval by school nurses. After  
31 assessing the health status of the individual student, a school nurse, in collaboration with the  
32 student's physician, parents and, in some instances, an individualized education program team,  
33 may delegate certain health care procedures to a school employee who shall be trained pursuant  
34 to this section, considered competent, have consultation with, and be monitored or supervised by  
35 the school nurse: *Provided,* That nothing in this section prohibits any school employee from  
36 providing specialized health procedures or any other prudent action to aid any person who is in  
37 acute physical distress or requires emergency assistance. For the purposes of this section  
38 "specialized health procedures" means, but is not limited to, catheterization, suctioning of  
39 tracheostomy, naso-gastric tube feeding or gastrostomy tube feeding. "School employee" means  
40 "teachers" as defined in §18-1-1 of this code and "aides" as defined in §18A-4-8 of this code.

41 Commencing with the school year beginning on July 1, 2002, "school employee" also means  
42 "secretary I", "secretary II" and "secretary III" as defined in §18A-4-8 of this code: *Provided,*  
43 *however,* That a "secretary I", "secretary II" and "secretary III" shall be limited to the dispensing of  
44 medications.

45 ~~(e)~~ (f) Any school service employee who elects, or is required by this section, to undergo  
46 training or retraining to provide, in the manner specified in this section, the specialized health care  
47 procedures for those students for which the selection has been approved by both the principal  
48 and the county board shall receive additional pay of at least one pay grade higher than the highest  
49 pay grade for which the employee is paid: *Provided,* That any training required in this section may  
50 be considered in lieu of required in-service training of the school employee and a school employee  
51 may not be required to elect to undergo the training or retraining: *Provided, however,* That  
52 commencing with July 1, 1989, any newly employed school employee in the field of special  
53 education is required to undergo the training and retraining as provided in this section: *Provided*  
54 *further,* That if an employee who holds a class title of an aide is employed in a school and the  
55 aide has received the training, pursuant to this section, then an employee in the field of special  
56 education is not required to perform the specialized health care procedures.

57 ~~(f) Each county school nurse, as designated and defined by this section~~ (g) The registered  
58 professional nurses of each county shall perform a needs assessment. These nurses shall meet  
59 ~~on the basis of the area served by their regional educational service agency, as determined by~~  
60 the State Board of Education, prepare recommendations and elect a representative to serve on  
61 the council of school nurses established under this section.

62 ~~(g)~~ (h) There shall be a council of school nurses which shall be convened by the State  
63 Board of Education. This council shall prepare a procedural manual and shall provide  
64 recommendations regarding a training course to the Commissioner of the Bureau for Public  
65 Health who shall consult with the state Department of Education. The state board then has the  
66 authority to promulgate a rule in accordance with the provisions of §29A-3b-1 *et seq.* of this code

67 to implement the training and to create standards used by those school nurses and school  
68 employees performing specialized health procedures. The council shall meet every two years to  
69 review the certification and training program regarding school employees.

70 ~~(h)~~ (i) The State Board of Education shall work in conjunction with county boards to provide  
71 training and retraining every two years as recommended by the Council of School Nurses and  
72 implemented by the rule promulgated by the state board.

NOTE: The purpose of this bill relates to school nurses; to require counties to employ nurses in proportion to student population; to require each county to have at least one school nurse; to allow licensed practical nurses supervised by a registered professional nurse to be counted as nurse; and to require that the registered professional nurse of a county complete a needs assessment.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.